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UNCLAS SECTION 01 OF 02 DHAKA 000693

SENSITIVE

SIPDIS

DEPT FOR EB/IFD/OIA HGOETHERT AND KBUTLER, L/CID PPEARSALL  
DEPT ALSO FOR SCA/INSB

E.O. 12958: N/A

TAGS: [EINV](#) [KIDE](#) [OPIC](#) [PGOV](#) [CASC](#) [BG](#)

SUBJECT: BANGLADESH 527 REPORT

REF: STATE 49477

**I**1. (SBU) The United States Government is aware of five (5) claims of United States persons that may be outstanding against the Government of Bangladesh (GOB). One case has been added in 2009.

**II. a. Claimant A**

b. 1979

c. In 1977 Claimant A entered into an agreement with the GOB Ministry of Agriculture. The agreement granted Claimant A a ten-year franchise to trap and export rhesus monkeys, with the obligation that Claimant A would build monkey-breeding farms in Bangladesh. The dispute began in January 1979 when the GOB terminated the contract after alleging that Claimant A had failed to begin building the breeding farms as agreed.

Claimant A immediately sought to resolve the dispute through direct discussions with Bangladesh, but those efforts failed. Claimant A then sought arbitration in accordance with the contract. In 1986, after the GOB failed to appoint an arbitrator, Claimant A appointed a sole arbitrator and received an arbitral award of over USD 16 million. Claimant A then sought to enforce the award in Bangladeshi courts for ten years. In February 1996, a lower court ruled against Claimant A. Claimant A appealed the lower court decision to the High Court.

On March 14, 1999, the Bangladeshi High Court in Dhaka ruled in favor of Claimant A, but on November 2, 1999, the GOB filed an appeal in the Supreme Court. The Supreme Court has yet to hear the appeal.

Since the early 1980s, the U.S. Embassy has been in contact with the Government of Bangladesh to facilitate discussions with Claimant A. In 1995, the Embassy contacted the GOB to express concern that access to Bangladeshi courts was being denied. After the 1996 judgment, the U.S. Embassy again contacted the GOB to encourage settlement. Since then, the Embassy has continued to monitor developments in the case.

Claimant A's representatives met with Ministry of Agriculture officials during the December 2-3, 2001 U.S. Bangladesh Business Council's (USBBC) delegation visit to Dhaka. Early in 2002, Claimant A's representatives met with GOB officials in Washington and expressed Claimant A's preference for resolving the matter amicably, but Claimant A's representatives also expressed firm plans to pursue all legal and political means to reach resolution. Claimant A followed up with calls and letters to the Bangladesh Embassy asking for an update on the GOB's position, but received no response.

U.S. counsel for Claimant A met with its local attorneys in fall 2006 in an attempt to expedite hearings on the appeal. In June 2008 Claimant A's attorney reported no change in the case, indicating

that it was unlikely to be heard in the near future. In June 2009, Claimant A's attorney could not be reached. Post has not been approached by Claimant A since 2006.

II. a. Claimant B

b. 1995

c. Claimant B, a U.S. citizen, borrowed USD 2.5 million from a Bangladeshi bank in 1989 to perform research and development, and to set up a factory to produce cataract lenses in Bangladesh. Claimant B apparently did not make his scheduled payments, and after his government contact left office, an anti-corruption case was filed against Claimant B (in 1992). Claimant B was arrested in 1995 and, after considerable U.S. Embassy effort and congressional interest, he was released from jail and allowed to leave Bangladesh. Over the years there have been efforts to establish a reasonable payment plan to the bank; however Claimant B stated that his factory, which employed 90 people, had never made an operating profit and that in order to address the issue, he needs to be able to go to Bangladesh and run the factory without fear of arrest.

A civil case against Claimant B, won by the bank for recovery of its funds, is on appeal and continues at an extremely slow pace. On Feb. 28, 2001, the Anti-corruption court delivered a guilty verdict, and sentenced him to seven years in prison and a USD 4.63 million fine. In order to appeal, Claimant B had to surrender himself to arrest and imprisonment within 60 days. The U.S. Government has received no further information on the case since March 2001.

III. a. Claimant C

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b. 2006

c. Claimant C and Petrobangla (an entity of the Government of Bangladesh) have been in a dispute over fees for gas pipeline usage since 1999. On March 17, 2006, Claimant C filed for international arbitration of that dispute against GOB with ICSID, a World Bank body, per the terms of its contract with Petrobangla. Petrobangla resisted that arbitration by pursuing a suit in a local Bangladeshi court; it later withdrew the lawsuit from the Bangladesh court. Despite this local challenge, the ICSID tribunal continued with its deliberations on the dispute. The tribunal heard the dispute May 18-19, 2009 in London. ICSID will likely deliver its verdict by the end of 2009. The Embassy remains in close contact with Claimant C.

IV. a. Claimant D

b. 2007

c. Claimant D represents a major U.S. hotel chain. In 2006 Claimant D signed a 99-year lease with the Ministry of Communications for a piece of land in Dhaka, belonging to Bangladesh Railways, on which to build a hotel. Environmental groups opposed the project, favoring instead the development of a park on the site. Soon after the lease was signed Bangladesh experienced a change in government. As the future of the site was debated, the new government withheld permission from Claimant E to begin construction of the hotel. In December 2007 an inter-ministerial committee decided to cancel the lease, agreeing to find an alternate site for the hotel. In May 2008 the municipal government evicted Claimant E from the site. The GOB has yet to offer an alternate site for the hotel, despite its stated desire to see the project move forward. The Embassy has advocated on behalf of Claimant D with the Ministry of Communications, the Ministry of Law and the Ministry of Civil Aviation and Tourism on numerous occasions and will continue to do so.

IV. a. Claimant E

b. 2009

c. Claimant E, which was founded in the United States 160 years ago, started operating in Bangladesh in 1990 as a joint venture with a

Bangladesh firm. In September 1997, what is now Claimant E became a 100-percent foreign-owned shipping venture, following its registration with the Government of Bangladesh. Since that time, Bangladesh Customs, a wing of the National Board of Revenue (NBR), has renewed every two years Claimant F's operating license as a 100-percent foreign-owned shipping firm. Claimant F applied to renew its license in 2009. However, the renewal of Claimant E's license and the licenses of other 100-percent foreign-owned shipping companies are on hold because the Government of Bangladesh is considering a change to its investment policy in this sector. The proposed change would require foreign-owned shipping companies to sell shares to local shipping firms and enter into minority joint ventures with the local firms.

The Embassy, other diplomatic missions in Dhaka and Bangladesh exporters have urged the Prime Minister and the Finance Minister on numerous occasions not to change the investment rules in this sector. In June 2009 the Prime Minister informed the Ambassador and the Assistant Secretary of State for South and Central Asia that 100-percent foreign-invested firms already operating in Bangladesh would be permitted to continue operating as they have for the last decade. NBR and Customs have thus far failed to implement this decision. The Embassy continues to engage the GOB on this issue and remains in close contact with Claimant E.

¶2. (SBU) Claimant A: MOL, Inc.

Claimant B: Dr. Rafiquzzaman

Claimant C: Chevron

Claimant D: Millennium Holdings, a Bangladeshi firm representing Hilton Hotels

Claimant E: APL

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